

REMARKS

Please note the fact that May 10, 2008, fell on a Saturday ensures that this paper is timely filed as of today, Monday, May 12, 2008 (the next succeeding day which is not a Saturday or Sunday).

In the Office Action dated January 10, 2008, pending Claims 1-21 were rejected under 35 U.S.C. § 101 and the rejection made final. The specification was also objected to based upon the usage of trademarks within the specification; this objection was also made final. No other rejections or objections were made. The Office is respectfully requested to reconsider the rejections and objections presented in the outstanding Office Action in light of the foregoing amendments and the following remarks.

It should be noted that Applicants submitted an Amendment After Final on March 27, 2008, which the Examiner did not enter. Therefore, Applicants herewith re-submit the amendments to the Specification, as in the Amendment After Final, as the Examiner indicated these amendments appear to overcome the objections to the Specification.

It should also be noted that Applicant is not conceding in this application the claims amended herein are not patentable, as the present claim amendments are only for facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicant specifically states no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Information Disclosure Statement

Applicants note that although the outstanding Office Action, mailed on January 10, 2008, states the contents of the information disclosure statement have not been considered by the Examiner, the Examiner has indeed considered 10 of the 17 references listed in the Information Disclosure statement (see *Advisory Action* of May 12, 2008, pp. 2). A further information disclosure statement re-submitting the 7 unconsidered references will be submitted shortly.

Specification Issues

The outstanding Office Action notes the use of trademarks, such as JAVA, HYPERJ and ASPECTJ, in the application. Applicant has amended the specification to address the issues noted by the Examiner. Specifically, Applicants have amended the specification to include descriptive nouns modified by the trademarks (i.e. “ASPECTJ” and “HYPERJ” are now followed by “extension framework” and “JAVA” is now followed by “language”), as suggested by the Examiner. Applicant notes that these amendments to the specification build upon the earlier submitted amendments to the specification (e.g. the capitalization of the trademarks). Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw these objections.

Rejection of Claims 1-21 under Section 101

Claims 1-21 were pending in the instant application at the time of the outstanding Office Action. Of these claims, Claims 1, 11, and 21 are independent claims; the remaining claims are dependent claims. All claims stand rejected as being directed to

non-statutory subject matter under 35 U.S.C. § 101. Reconsideration and withdrawal of this rejection is respectfully requested.

Applicant respectfully disagrees with this rejection of the claims under Section 101, but has amended the independent claims to further emphasize that they are directed to statutory subject matter.

For example, independent claim 1 has been amended to recite, *inter alia*, “An apparatus for allowing a user to model at least one aspect of a software artifact by using extension types ... wherein said extension types are utilized to simplify implementation of data classifications.” The remaining independent claims (11 and 21) have been similarly amended. These amendments are intended to clarify that a user wishing to model software artifacts to improve data classification and organization can utilize the instantly claimed invention to do so, thereby achieving a “real world” result.

Applicants respectfully submit that it is well known by those with ordinary skill in the art that such software artifact modeling is useful and has practical application, i.e., has a concrete and tangible “real world” result. In software, modeling is used essentially for two purposes: (1) to check internal consistency and (2) to check for external consistency. Internal consistency is typically used to prove the properties of the system that is being modeled. External consistency is used to verify observable behavior. In the instantly claimed invention, a user may utilize the extension types provided for modeling variations in software (e.g., when changes are to be implemented). It is well understood in the art that modeling variations is extremely important to enable proper understanding

of software evolution and for software maintenance. Using the methods and apparatus of the instantly claimed invention, a user is enabled to more easily/flexibly model variations among software artifacts to implement design changes/data classification. Specification, pp. 40, lines 14-18.

Moreover, Applicant respectfully submits that it is well understood by those with skill in the art that a software artifact is “[a]ny piece of software...developed and used during software development and maintenance.” *Software Engineering Mini Glossary*, <http://www.idi.ntnu.no/grupper/su/publ/ese/se-defs.html> (last visited March 27, 2008). Even if it were not so readily understood, as much can be understood by one of ordinary skill in the art from the original specification, specifically pp. 2, line 15-pp. 3, line 5; pp. 8, lines 7-9 (stating “Herein there is also described the semantics of extension types, and several applications of extension types are given in the context of aspect-oriented software development and design patterns.”). Thus, Applicant respectfully submits that modeling software artifacts using the extension types of the instant invention has a practical application, as evidenced by the claims; for example, to simplify implementation of new data classifications. Numerous examples of practical applications are given throughout the specification as well. Therefore, the claimed invention is directed to statutory subject matter. Applicants respectfully request reconsideration and withdrawal of these rejections.

Should the Examiner not withdraw the Section 101 rejection, Applicants respectfully request the Examiner to suggest how the rejection may be overcome to avoid unnecessary delays in prosecution. As stated in Section 2106 II of the MPEP,

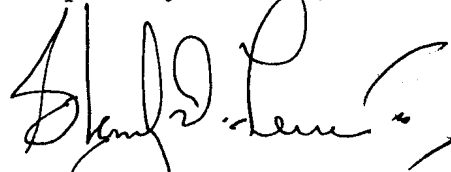
[w]henver practicable, *<USPTO> personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

To that end, should the Examiner, upon re-evaluation of the current rejection in light of the foregoing Remarks, deem that a rejection under Section 101 is still proper; Applicant and his undersigned representative kindly request the courtesy of a Telephone Interview so that an agreement on an Examiner's Amendment may be reached as to how the claims might be amended in order to satisfy Section 101.

Conclusion

In summary, it is respectfully submitted that the instant application, including Claims 1-21, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited.

Respectfully submitted,



Stanley D. Ference III
Registration No. 33,879

Customer No. 35195
FERENCE & ASSOCIATES LLC
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 741-8400
(412) 741-9292 - Facsimile

Attorneys for Applicants